



House of Representatives

General Assembly

File No. 77

January Session, 2015

House Bill No. 6727

House of Representatives, March 17, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE DESIGNATION OF HEARING OFFICERS BY THE COMMISSIONER OF AGRICULTURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22-4b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 The Commissioner of Agriculture may designate as [his] an agent of
4 the commissioner: (1) [any] Any deputy commissioner or any
5 employee of the department to exercise all or part of the authority,
6 powers and duties of said commissioner in [his] the absence [or] of the
7 commissioner, (2) any deputy commissioner or any employee,
8 assistant or agent employed by the Department of Agriculture to
9 exercise such authority of the Commissioner of Agriculture as [he] the
10 commissioner delegates for the administration or enforcement of any
11 applicable statute, regulation, permit or order, (3) any deputy
12 commissioner, employee, assistant or agent employed by the
13 Department of Agriculture who is deemed qualified by the
14 commissioner to act as a hearing officer in administrative hearings, (4)

15 two or more qualified persons, one of whom shall be designated as the
16 presiding officer to conduct administrative hearings, and (5) any
17 qualified person to serve as a hearing officer for contested cases who
18 may be compensated for such service. Any such hearing officer
19 appointed by the commissioner shall render a proposed final decision
20 or the final decision as directed by the commissioner except that the
21 commissioner or deputy commissioner shall consider and make the
22 final decision when modification or reconsideration of a contested case
23 is requested by a party pursuant to section 4-181a.

24 Sec. 2. Section 22-6 of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2015*):

26 The Commissioner of Agriculture shall be the administrative head
27 of the Department of Agriculture. [He] The commissioner shall
28 encourage and promote the development of agriculture within the
29 state and collect and publish information and statistics in regard to the
30 agricultural and animal industries and interests of the state and submit
31 the same to the Governor in [his] an annual report. [He] The
32 commissioner shall, annually, visit different sections of the state and
33 investigate the methods and wants of practical husbandry, the
34 adaptation of agricultural products to soil, climate and markets, and,
35 as far as practicable, visit agricultural fairs within the state, encourage
36 the establishment of farmers' clubs, agricultural libraries and reading
37 rooms and disseminate agricultural information by lectures or
38 otherwise. In cooperation with The University of Connecticut, [he] the
39 commissioner may prepare and publish bulletins containing
40 information concerning the cost of production of farm products. [He]
41 The commissioner is authorized to hold an annual state exhibit at the
42 Eastern States Exposition at West Springfield, Massachusetts. [He] The
43 commissioner is authorized to enter into an agreement with the United
44 States Department of Agriculture for cooperative work in the collection
45 and publication of agricultural statistics. The commissioner shall have
46 the authority to charge such fees as [he] the commissioner may deem
47 reasonable for publications of information by any of the component
48 agencies of the Department of Agriculture. The commissioner shall

49 review any proposed capital project [which] that would convert
 50 twenty-five or more acres of prime farmland or one acre or more of
 51 shellfish grounds to a nonagricultural use and if such project promotes
 52 agriculture or the goal of agricultural land preservation or if there is no
 53 reasonable alternative site for the project [he] the commissioner shall
 54 file a statement with the Bond Commission so indicating. The
 55 commissioner shall file a statement with the Bond Commission for any
 56 proposed capital project [which] that would convert or impair any
 57 shellfish grounds and shall include in such statement any comments
 58 [he] the commissioner deems appropriate for the protection of such
 59 grounds. The commissioner shall administer those provisions of
 60 sections 12-107a, 12-107b, 12-107c and 12-107e [which] that address the
 61 assessment of farmland and open space. The commissioner may
 62 request the Attorney General to bring an action in the Superior Court
 63 for injunctive relief requiring compliance with any statute, regulation,
 64 order or permit administered, adopted or issued by [him] the
 65 commissioner. [The Commissioner of Agriculture may designate as his
 66 agent (1) any deputy commissioner to exercise all or part of the
 67 authority, powers and duties of the commissioner in his absence and
 68 (2) any deputy commissioner or any employee to exercise such
 69 authority of the commissioner as he delegates for the administration or
 70 enforcement of any applicable statute, regulation, permit or order,
 71 except the authority to render a final decision after a hearing.]

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2015	22-4b
Sec. 2	October 1, 2015	22-6

ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Department of Agriculture	GF - Cost	Less than 5,000	Less than 5,000

Municipal Impact: None

Explanation

The bill (1) expands the Department of Agriculture's (DAG) authority to designate qualified people to carry out administrative proceedings, and (2) allows the Commissioner to designate a paid person to act as a hearing officer for contested cases. Currently, agency staff must act as the hearing officer.

It is anticipated that the agency would hire an outside attorney for contested cases, resulting in costs estimated to be less than \$5,000 annually, as there are no legal staff persons employed by DAG.

There are approximately 15 contested cases each year. However, in FY 15 the number of contested cases is currently 25 and this number is anticipated to increase.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of contested cases.

OLR Bill Analysis**HB 6727*****AN ACT CONCERNING THE DESIGNATION OF HEARING OFFICERS BY THE COMMISSIONER OF AGRICULTURE.*****SUMMARY:**

This bill expands the Department of Agriculture (DoAg) commissioner's authority to designate people he deems qualified to carry out certain agency functions, including administrative proceedings.

Under current law, the commissioner may designate a DoAg (1) deputy commissioner to act in his place if he is absent and (2) deputy commissioner, employee, assistant, or agent to administer or enforce statutes, regulations, permits, or orders.

The bill allows the commissioner to designate:

1. a DoAg employee, instead of only a deputy commissioner, to act in his place when he is absent;
2. a DoAg deputy commissioner, employee, assistant, or agent to be a hearing officer in an administrative hearing;
3. more than one qualified person to conduct an administrative hearing, with one serving as the presiding officer; and
4. any qualified person, who the commissioner may pay, to be a hearing officer for a contested case.

Under current law, the authority to issue a final decision after a hearing lies solely with the commissioner. The bill authorizes the commissioner to direct a hearing officer to make a (1) proposed final decision or (2) final decision. But the commissioner or a deputy

commissioner must consider and make final decisions for modifications or reconsiderations of contested cases (see BACKGROUND).

Lastly, the bill (1) eliminates a duplicative provision on the commissioner's authority to delegate agents and (2) makes other technical changes.

EFFECTIVE DATE: October 1, 2015

BACKGROUND

Uniform Administrative Procedure Act (UAPA)

Under the UAPA, final decisions are those resulting from a contested case where the affected party is given a right to a hearing. A "contested case" is an agency proceeding where a person's legal rights, duties, or privileges are determined by statute. The UAPA regulates how agencies conduct these cases, including (1) determining the parties, (2) setting notice requirements, (3) guiding the conduct and record of the hearing, and (4) setting rules for appeals. Only an agency's final decision can be appealed to Superior Court.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 27 Nay 0 (02/27/2015)